

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

TEXAS TRIBUNE, MANO AMIGA, and
CALDWELL/HAYS EXAMINER,

Plaintiffs,

v.

CALDWELL COUNTY, TEXAS,

TREY HICKS, in his official capacity as
Caldwell County Court at Law Judge and
Caldwell County Magistrate,

MATT KIELY, SHANNA CONLEY, ANITA
DELEON, and YVETTE MIRELES, in their
official capacities as Caldwell County Justices
of the Peace and Caldwell County
Magistrates, and

MIKE LANE, in his official capacity as the
Sheriff of Caldwell County,

Defendants.

Civil Action No. 1:23-cv-910-RP

Joint Motion to Modify Scheduling Order

TO THE HONORABLE UNITED STATES DISTRICT COURT,

Plaintiffs Texas Tribune, Mano Amiga, and Caldwell/Hays Examiner and Defendants Caldwell County, Texas, Trey Hicks, Matt Kiely, Shanna Conley, Anita DeLeon, Yvette Mireles, and Mike Lane respectfully submit this motion to modify the Scheduling Order in this case pursuant to Rule 16(b)(4). They would respectfully show the Court as follows.

I. BACKGROUND

Plaintiffs filed their complaint on August 3, 2023, and moved for a preliminary injunction on September 27, 2023. This Court granted Plaintiffs' preliminary injunction motion on February

5, 2024, and Defendants appealed. Dkts. 30, 32. In March, April and May, the Parties engaged in mediation as part of the Fifth Circuit Mediation Program but did not reach a resolution. The appeal is now fully briefed and oral argument is scheduled for October 8, 2024.¹

Proceedings in this Court have continued during the pendency of the appeal and discovery is underway. Under the current scheduling order, discovery is set to close on August 30, 2024. Plaintiffs served interrogatories and requests for production in early June, and Defendants have provided interrogatory responses and documents for four of the seven defendants. Once Defendants complete their production, Plaintiffs will need time to review it and raise any concerns regarding the production with Defendants. Plaintiffs also anticipate the need to serve additional targeted discovery requests. Defendants have not yet served discovery requests.

The Parties now request that the Court modify the scheduling order by extending the discovery deadline and the other outstanding deadlines in the case by six months, as laid out in Exhibit A, Parties' Proposed Modified Scheduling Order.

II. ARGUMENT

The Parties have achieved meaningful progress but will not complete discovery before the existing deadline of August 30, 2024. Good cause exists to support modifying the Scheduling Order under Rule 16(b)(4).

In determining whether good cause exists to modify a scheduling order, the court considers “(1) the explanation for the failure to timely comply with the scheduling order; (2) the importance of the modification; (3) potential prejudice in allowing the modification; and (4) the availability of a continuance to cure such prejudice.” *Betzel v. State Farm Lloyds*, 480 F.3d 704, 707 (5th Cir. 2007). In this case, the Parties will be unable to meet the existing discovery timeline in spite of

¹ By agreeing to this Motion, Defendants do not waive their ability to file a Motion to Stay the Proceeding pending Appeal as the matter has been set for Oral Argument.

their efforts to date. Having engaged in mediation efforts as well as begun the discovery process, the Parties seek to extend the existing timeline in order to conduct fact discovery sufficient to inform any settlement discussions and conserve the Court's resources in deciding dispositive motions and conducting a trial. The Parties jointly request a modification from which neither complains of prejudice and anticipate that after further specific, tailored requests, discovery can comfortably be completed within the timeframe laid out in the Proposed Modified Scheduling Order. Extending the outstanding deadlines in the Scheduling Order will promote "the just, speedy, and inexpensive determination" of this case. Fed. R. Civ. P. 1.

III. CONCLUSION

Because good cause has been shown, the Parties request that the discovery deadline and the other outstanding deadlines in the case be extended by six months, as laid out in Exhibit A, Parties' Proposed Modified Scheduling Order.

Respectfully submitted August 27, 2024,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this motion has been filed with the court's electronic-filing system and therefore served in accordance with the Federal Rules of Civil Procedure.

/s/ Camilla Hsu
Camilla Hsu